

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION**

Michael K. Gregory, )  
Plaintiff, )  
v. )  
K. Zimmerman et al., )  
Defendants, )  
No. 3:18-cv-00444-PPS-MGG  
Judge Philip P. Simon  
Magistrate Judge Michael G. Gotsch,  
Sr.  
)  
)

## **UNOPPOSED MOTION TO LIFT STAY OF LITIGATION**

Plaintiff Michael K. Gregory (“Plaintiff”), by his undersigned attorneys, respectfully moves this Court to enter an order lifting the stay of litigation in the above-captioned civil proceeding. In support of this motion, Plaintiff states as follows:

1. On September 11, 2020, the parties to this action filed a Joint Motion to Stay the above-captioned proceeding pending the resolution of a parallel criminal proceeding, captioned *State of Indiana v. Michael Gregory*, Case No. 46D02-1706-F5-000566.
2. At the time parties filed the Joint Motion to Stay, the trial in the criminal proceeding was scheduled to commence on March 9, 2021.
3. On September 14, 2020, this Court entered an order granting the Joint Motion to Stay. The order required the parties to file a joint status report by December 14, 2020 to “inform the Court of the status of the criminal matter and the anticipated timeframe for its resolution.” September 14, 2020 Order, Dkt. 95.
4. On December 14, 2020, the parties filed a Joint Status Report, which stated that the criminal trial remained scheduled to commence on March 9, 2021.

5. On December 15, 2020, this Court entered an order extending the stay of litigation in the civil case “pending full resolution of the underlying criminal matter” and ordered the parties to “file another status report within fourteen (14) days after resolution of the related criminal matter or by March 26, 2021, whichever is earlier.” December 15, 2020 Order, Dkt. 97.

6. On January 21, 2021, the LaPorte County Superior Court cancelled the criminal trial that was previously scheduled to commence on March 9, 2021 in *State of Indiana v. Michael Gregory*, Case No. 46D02-1706-F5-000566. As of the filing of this motion, the criminal trial has not been rescheduled. On February 5, 2021, the court issued an order to appoint a new public defender to represent Mr. Gregory in the criminal proceeding.

7. Numerous other criminal trials in LaPorte County that were scheduled to commence prior to March 9, 2021 have also been cancelled, which will likely result in further postponement of the trial in *State of Indiana v. Michael Gregory*.

8. The question of whether to stay a civil case—or to lift a stay that is in place—while a related criminal matter is pending is left to the court’s sound discretion. In the circumstances presented here, where the criminal trial is unscheduled and unlikely to commence for the foreseeable future, the interests of justice support lifting the stay. *See, e.g., Sec. & Exch. Comm’n v. Liberty*, 2:18-CV-00139-JDL, 2020 WL 4677292, at \*2 (D. Me. Aug. 12, 2020) (granting motion to lift stay in a civil proceeding where trial in the related criminal proceeding was postponed by nearly a year).

9. Plaintiff has conferred with counsel for Defendants about this motion. Counsel for Defendants state that they do not oppose the motion.

For the reasons stated herein, Plaintiff respectfully requests that the Court grant this motion and enter an order lifting the stay of litigation in this proceeding.

Dated: February 11, 2021

Respectfully Submitted,

*/s/ Keri Holleb Hotaling*

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#### **CERTIFICATE OF SERVICE**

I hereby certify that on February 11, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to counsel of record.

*/s/ Keri Holleb Hotaling*  
Keri Holleb Hotaling